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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,847	11/17/2003	Pin Huang Ting	AAC154	9480

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EXAMINER

THOMPSON, MICHAEL M

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,847

Applicant(s)

TING, PIN HUANG

Examiner

Michael M. Thompson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The use of the trademark VICRYL, DEXON, or CATGUT has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lowe et al. (5,277,912) or Simpson et al. (4,416,659). Both Simpson and Lowe teach a method of inserting solid objects into human bodies by use of a syringe device with plunger (Figure 8), the device comprising a capsule and an extension (14) from the solid object further comprising a bend in the extension wherein the extension is meant to retain the solid object (brief summary).

4. Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott (4,402,308) or Harman (4,451,253) or Fujioka et al. (4,950,234). Scott, Harman, and Fujioka et al. ('234) all teach a method of inserting solid objects into human bodies by use of a syringe

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device with plunger, the solid objects selected from Vicryl (polyglactin) in the case of Scott and Harmon and Dexon (polyglycolic acid) in the case of Fujioka et al.

5. Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Smart (3,757,781) or Crouter et al. (3,780,735). Smart and Crouter et al. both teach a method of inserting solid objects into human bodies by use of a syringe device with plunger, the device comprising a capsule.

6. Claims 1 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujioka et al. (4,900,304). Fujioka et al. ('304) teaches a method of inserting solid objects into human bodies by use of a syringe device with plunger, the device comprising a capsule (20).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smart ('781) or Crouter et al. ('735) in view of Simpson et al. ('659) or Lowe et al. ('912). Smart and Crouter et al. both teach all of the limitations of the claims except for explicitly reciting an extension extending from the solid objects, the extension bending relative to the solid objects. Simpson et al. or Lowe et al. both teach an extension extending from the solid objects, the extension (14) bending relative to the solid objects as shown in the Figures. It would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the delivery devices taught by Smart and Crouter et al. to deliver the capsule with extensions for retention as taught by Simpson et al. or Lowe et al. for the purpose of orally delivering a capsule capable of preventing the regurgitation of the capsule and to better withstand working and contractions of the rumen.

Contacts

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael Thompson whose telephone number is (571) 272-4968. The Examiner can normally be reached on Monday through Friday from 9 am to 5 PM.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Nick Lucchesi, can be reached on (571) 272-4977. The official fax phone number for all submissions to the organization where this application or proceeding is assigned is (703) 872-9306.

Michael M. Thompson

Patent Examiner

MT 

November 21, 2004



NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNICAL CENTER